

SUBJECT

Delegation of Approval for Schools with Fewer than Ten Pupils

BACKGROUND

At the June 1999 Board meeting, the Board considered an item brought forth by the State Department of Education asking for approval for certain schools to operate with less than ten pupils. The Board approved the requests, but asked that staff explore the possibility of placing the approval authority for schools with less than ten pupils with the Superintendent of Public Instruction, rather than requiring these items be brought before the full Board. In the current year, nine schools throughout the state have approval to operate with less than ten pupils. Approval to operate and be eligible for state and county support for these nine and any others that fall below ten pupils is sought on an annual basis.

Idaho Code §33-1003(2)(d) provides that “any elementary school having less than ten pupils in average daily attendance shall not be allowed to participate in the state or county support program unless the school has been approved for operation by the state board of education.” Because this same code section contains several other provisions that require State Board approval, it would be inconsistent to change the code so that this one provision requires approval by the Superintendent of Public Instruction rather than the State Board of Education. The State Superintendent of Public Instruction serves as the Board’s Executive Secretary for all K-12 matters pursuant to Idaho Code §33-102. Additionally, the Board has the authority under Idaho Code §33-125 and §67-1504 to delegate matters related to elementary and secondary schools to the Superintendent of Public Instruction. It is specifically stated in §67-1504 as follows:

SUPERINTENDENT AS MEMBER OF THE STATE BOARD OF EDUCATION – DUTIES.
He shall be an ex officio voting member of the state board of education. He shall enforce its rules and regulations concerning all elementary and secondary school matters under the control of the board and see that all matters requiring the decision of the board are promptly placed before it for decision. He shall faithfully execute the duties devolving upon him or delegated to him by said board concerning all elementary and the secondary school matters under the control of the board except institutions of higher education.

DISCUSSION

Since Idaho law allows the Board to delegate its authority in this matter to the Superintendent of Public Instruction, a code change is unnecessary. Rather, a resolution delegating the authority would suffice (see attachment A).

BOARD ACTION

It was moved by _____, seconded by _____ and carried to delegate the authority, pursuant to the attached resolution, to approve the operation of schools with less than ten pupils to the Superintendent for Public Instruction. Additionally, the Superintendent shall provide a report to the Board in September annually listing the schools that have requested to operate with less than ten pupils and whether approval was granted.

RESOLUTION

A RESOLUTION DELEGATING AUTHORITY TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO APPROVE THE OPERATION OF SCHOOLS WITH LESS THAN TEN PUPILS.

WHEREAS, Idaho Code §33-1003(2)(d) provides that, “any elementary school having less than ten pupils in average daily attendance shall not be allowed to participate in the state or county support program unless the school has been approved for operation by the state board of education;” and

WHEREAS, Idaho Code §67-1504 provides the Superintendent of Public Instruction shall “execute the duties devolving upon him/her or delegated to him/her by said board concerning all elementary and secondary school matters under the control of the board...;” and

WHEREAS, this delegation is subject to rescision, modification or revocation at the sole discretion of the State Board of Education.

NOW, THEREFORE, BE IT RESOLVED by the State Board of Education, that authority to approve the operation of schools with less than ten pupils, as provided in Idaho Code §33-1003(2)(d) is hereby delegated to the Superintendent of Public Instruction.

BE IT FURTHER RESOLVED that the Superintendent of Public Instruction shall provide a report to the Board in September annually listing the schools that have requested to operate with less than ten pupils and whether approval was granted.

PASSED by the State Board of Education this 19th day of November, 1999.

Harold W. Davis
President
State Board of Education

ATTEST:

By: _____
Secretary to the Board